

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Western Mass Electric Company

Date application filed with the Town Clerk: November 7, 2005

Nature of request: A Special Permit under Section 3.340 of the Zoning Bylaw to erect two garage storage tents (one existing, one proposed) for the purpose of parking and sheltering bucket trucks

Address: 325 Sunderland Road (Map 2A, Parcel 6, R-O Zoning District)

Legal notice: Published on November 23rd & 30th, 2005 in the Daily Hampshire Gazette and sent to abutters on November 21, 2005.

Board members: Tom Simpson, Barbara Ford and Russ Frank

Submissions: The petitioner submitted a site plan drawn by Northeast Utilities Service Company showing the proposed location of the two storage tents and an eleven-page description of the tent design/construction.

Town staff and committees submitted the following:

- A memo from the Planning Department dated 12/1/05 outlining dimensional requirements and listing previous Special Permits FY93-10 and FY93-25
- A memo from the Fire Department dated 11/23/05 stating that the proposal does not appear to have an impact on emergency vehicles or require additional resources.
- A Negative Determination from the Conservation Commission dated 10/26/05, requiring no further submissions since the proposal will not affect wetland areas of the site.

Site Visit: December 7, 2005

The Board met at the site with Tighe & Bond consultant Tracy Adamski, and WMECO employees Howie Booker and Barbara Charest. They observed the following:

- A large two-acre lot on a heavily traveled road, Route 116, near the Sunderland town line in North Amherst.
- Several small block buildings, the transformer, pylons, a truck garage, and existing storage tent
- The staked location of the proposed tent
- The fence surrounding the substation
- The wet area in the front of the property
- The lack of residences in the area

Public Hearing: December 8, 2005

Tracie Adamski of Tighe & Bond and Barbara Charest from WMECO were present at the hearing.

Ms. Adamski gave the following information:

- WEMCO would like approval for two tents, one existing and one proposed.
- The tents would be 14 feet high, 14 feet wide and 30 feet long.
- The tents will be used to house the bucket trucks and protect them from snow, ice, etc.
- The tents will be made of vinyl tent material
- There will be no footings, but will be anchored into the ground
- The new tent will be the same as the existing one.
- The existing tent is 21 feet from the property line. The required side setback in an R-O district is 25 feet for a primary structure, but the applicant considers the tents as accessory structures. In that case, according to Section 6.15 of the Zoning Bylaw, the setback is equal to the height of the tent, 14 feet
- The existing tent does not have a ZBA Special Permit, but does have a temporary building permit.
- The tents have a 10-year warranty, but they are hoping to keep them as long as possible
- If the tents become damaged, they will be replaced.

Board Chair Mr. Simpson commented that the temporary trailer that was shown on the plans and given a Special Permit, FY93-10, is no longer there. However, the landscaping that is a condition of both the FY93-10 and FY93-25 Special Permits is not there either. At the site visit it was noted that there are some shrubs in front, but not as many as shown on the plan, Mr. Simpson said.

Ms. Charest said that she will check on the landscaping for the site.

Board member Mr. Frank asked whether there would be heat, light or security for the tents. The applicant responded that there would be no heat or light in the tents, and that security would be the same as for the entire site.

Mr. Frank asked whether the tents can be moved, and the applicant said that they could. They have no foundation, and merely anchored in place.

Mr. Simpson asked that, if the intent of the tents is to keep them forever, why not have a garage. Ms. Charest replied that the tents are less expensive than a garage. The vehicles are on site for the winter, but sporadically throughout the rest of year. The tents protect the trucks enough so that they can still be started in the winter if necessary. The trucks are taken to Hadley for maintenance if needed.

Building Commissioner Bonnie Weeks asked how much closer to the station it would be possible to move the tents. They should not be placed too close to the transformers.

Ms. Adamski said that the tents can be moved, but did not give a needed distance from the transformers. Ms. Charest stated that the transformer is mobile, and will be moved when a permanent one is installed. At that point the tents can be moved.

Mr. Simpson asked the Board if they needed any additional information in order to make a decision on the application. The Board agreed that they had enough information.

Ms. Ford moved to close the evidentiary part of the hearing. Mr. Frank seconded the motion, and the vote was unanimous to close the hearing.

Public Meeting:

The Board discussed the definition of an accessory structure, and whether the proposed tents qualify. Ms. Weeks said that an accessory structure must be associated with the principal use, but does not house the principal use on the site. Garages, sheds, barns are often considered accessory structures, she said. Section 5.0152 of the Zoning Bylaw allows for the garaging or parking of larger commercial vehicles as an accessory use under a Special Permit.

Thus the Board concluded that the proposed tents can be classified as accessory structures, and can be placed within the side yard setback, set back a distance at least equal to its height of 14 feet. The setback for the existing tent is 21 feet. The proposed second tent would be about 39 feet from the side yard, just north of the existing tent.

In terms of length of time for accessory structures made of canvas or similar materials such as what is proposed, the goal usually is for a limited time period, Ms. Weeks stated. The tennis structure or the bio-shelter, both nearby on Route 116, are both "temporary" structures, but have been in place for more than a year.

Ms. Ford stated that she was willing to allow the proposed tents on the WMECO property for not more than five (5) years.

Mr. Simpson noted that Special Permit FY93-10 allowed for an emergency communications office under Section 5.0172 of the Bylaw, but did not put a time limit on the permit. A better classification for the office would be Section 5.00, which is more general, not associated with residential use and does not have a time limit for the Special Permit.

The Board also concluded that the landscaping condition of Special Permit FY93-10 needs to be followed, and will include that again in the conditions of this permit.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 – The proposal to install tents to store vehicles in the winter within a fenced area on WMECO property is suitably located in the neighborhood of other businesses nearby and along a heavily traveled road. There are only a few residences in the area and they are uphill to the east, along other roads.

10.382 & 10.385 – The proposal would not constitute a nuisance due to noise, odor, dust, lights or visually offensive structures since there are other temporary structures on site and in the surrounding area, with no ill-effect to residences or other businesses. Visually, they should be unobtrusive, given the neutral color and location at the back of the site.

10.383, 10.384 & 10.387 – The proposal will not be an inconvenience or hazard to abutters, vehicles or pedestrians, because access to the site is open, the facility is fenced, and the site is large. Pedestrians along Route 116 are rare, but can easily be seen by vehicles coming or going to the site.

10.386 – No signs are associated with the proposal, and the proposal for parking accessory vehicles meets the accessory requirements of the Zoning Bylaw, Section 5.00.

10.392 – The proposal will provide adequate landscaping via the conditions of this permit.

10.393 & 10.394 – The proposal provides protection of adjacent properties and wetlands by minimizing the intrusion of lighting, and avoiding wetlands. The proposed tents will be set well back from the road, more than 300 feet, and fenced.

10.398 – The proposal is in harmony with the general purpose and intent of the Bylaw, which is to promote the health and safety of the inhabitants of Amherst.

Zoning Board Decision:

Ms. Ford moved to APPROVE a Special Permit to WMECO, with conditions. Mr. Frank seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit under Sections 5.015 and 3.340 of the Zoning Bylaw for two garage storage tents for the purpose of parking and sheltering bucket trucks on the premises at 325 Sunderland Road (Map 2A, Parcel 6, R-O Zoning District), as requested in the application filed by Western Mass Electric Co, with conditions.

TOM SIMPSON

BARBARA FORD

RUSS FRANK

FILED THIS _____ day of _____, 2006 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2006.
NOTICE OF DECISION mailed this _____ day of _____, 2006
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2006,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit under Sections 5.015 and 3.340 of the Zoning Bylaw for two garage storage tents for the purpose of parking and sheltering bucket trucks on the premises at 325 Sunderland Road (Map 2A, Parcel 6, R-O Zoning District), as requested in the application filed by Western Mass Electric Company, subject to the following conditions:

1. This permit shall expire five years from the date of filing.
2. An address sign installed on the property shall be located so as to be visible to drivers from both directions along Sunderland Road.
3. Landscaping shall be installed by September 1, 2006 as shown on the plan approved at a public meeting for Special Permit FY93-25, and thereafter shall be maintained permanently.
4. The garage storage tents shall have no lighting installed or associated with them.
5. The storage tents shall be built according to plan submitted and approved by the Board at a public meeting December 8, 2005 and on file in the zoning office.
6. The color of the new tent shall be the same as the current color of the existing tent.
7. The tents shall be inspected regularly and maintained in good condition.
8. The tents shall be used only to house the bucket trucks and shall not be used for storage of other equipment, general storage, or for maintenance or repairs.

TOM SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE